AB 2296 Consulting Group

Financial Assurances Phase II Rulemaking

California Integrated Waste Management Board
Workshop

Integrated Waste Management Board July 9, 2009

Agenda

- Introductions and General Overview
- Options to Address the May 2009 Board Direction for Phase II Regulations on Closed/Closing Facilities
 - Postclosure Maintenance Financial Assurances
 - Corrective Action Financial Assurances
- Lunch Break
- Continuity of Financial Assurances During Transfer of Ownership
- Wrap Up and Next Steps

Options to Address Postclosure Maintenance

Closing/Closed

- 1. 30X the PCM estimate
 - a) Same as Operating including criteria allowing step-down
 - Allow build up period for cash mechanisms
- 2. Not require increase (to 30X) above current demonstration level, no less than 15X
- 3. Perform Evaluation to set level (options to determine level?)
- 4. <u>Some stakeholders requested that the closing and closed operators be allowed to draw-down on a year-for-year basis to 15X</u>

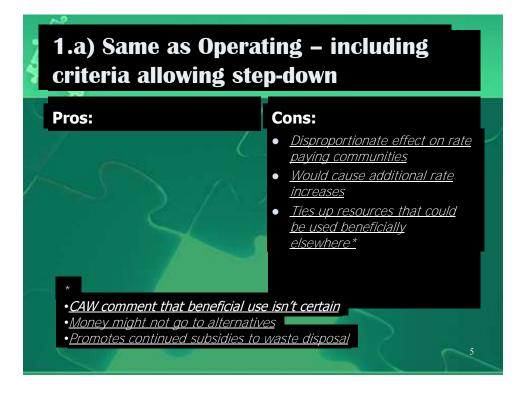
1.a) Same as Operating – including criteria allowing step-down

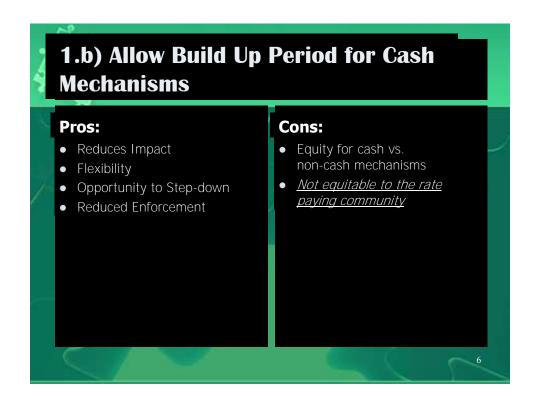
Pros:

- More Protective
- Minimal System Impact
- Equity
- Ease of Administration
- May Be Eligible for Step-down

Cons:

- Increased Early Defaults
- Increased Enforcement
- Inability for Some to Raise Additional Funds
- Fairness already closed and imposing additional financial demonstration requirement





2. Not require increase (to 30X) above current demonstration level, no less than 15X

Pros:

- Mitigates Impact on Individual Landfills
- Fairness
- More fair to rate paying community

Cons:

- Increase Exposure to State
- Equity for operating vs. closing/closed and for cash vs. non-cash

3. Perform Evaluation to Set Level – Not Less Than 15X

Pros:

• Better Match Likelihood of Default and Level of Assurance

Cons:

- High Transaction Costs for Operator and Board
- Criteria outside existing Mechanisms/program difficult to develop

Options to Address Corrective Action

Closing/Closed

- 1. Same as Active/Operating
 - a) Immediately
 - b) Allow Build Up Period
- 2. Original Phase II Proposal Broaden Use of Water Board Financial Assurance
- 3. Delay Effective Date For Final Cover Replacement
- 4. Site Specific Corrective Action Plan
- 5. Include Costs in Pooled Fund

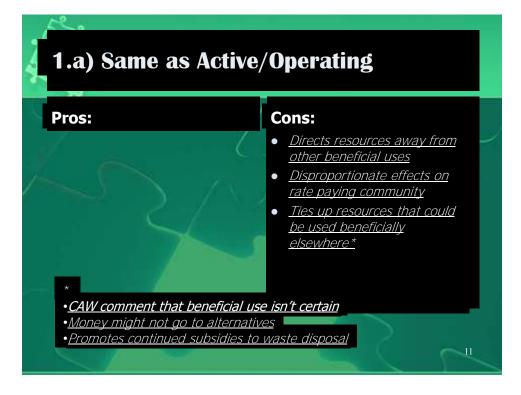
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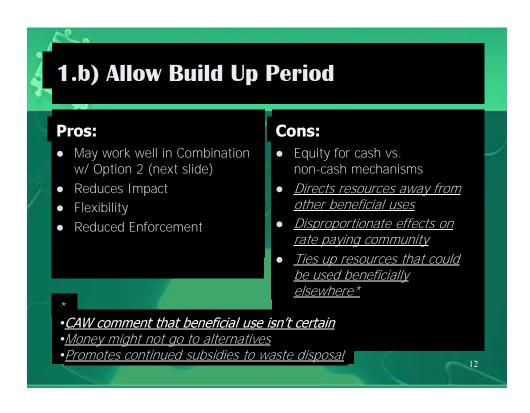
Pros:

- More Protective
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Cons:

- Increased Early Defaults
- Increased Enforcement
- Inability for Some to Raise Additional Funds
- Fairness already closed and imposing additional financial demonstration requirement





2. Original Phase II Proposal – Broaden Use of Water Board Financial Assurance

Pros:

- Simple to Implement
- Minimal Financial Impact
- Equity
- Fairness

Cons:

- Might not provide enough financial assurance to cover the exposure
- Doesn't address Major Maintenance

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3. Delay Effective Date For Final Cover Replacement

Pros:

• Incentivizes Closing landfills to be certified Closed (SD-4.2)

Cons:

- Might not provide enough financial assurance to cover the exposure
- Doesn't address Major Maintenance

:losed landfills to comply with the vould require compliance with the ing Water Roard corrective action

original Phase II proposal (using Water Board corrective action estimate for financial assurance purposes).

A. Site Specific Corrective Action Plan Pros: • Recognizes potential for Major Maintenance • Fairness Cons: • Monetary Expense to Develop Plan • Workload to Review Plans • Equity Issue (unless also imposed on operating landfills)

5. Include Costs in Mandatory Pooled Fund(s) Cons: **Pros:** Would reduce the amount • There is no Pooled Fund(s) yet required for individual financial assurances Pooled Fund(s) • Closed landfills allowed to count a year-for-year reduction now and draw-down to 15X • Operating landfills allowed to draw-down to 15X • Spread costs across State • Introduces a moral hazard with less accountability for the • Cover catastrophic failure individual landfill operator across state at individual <u>landfills</u> Should cover currently closed landfills

Continuity of Financial Assurances During Transfer of Ownership

- Stay at current landfill financial assurance requirement
 - <u>Pro Would be useful (to the seller) with review of new owner by CIWMB</u>
 - Con New owner could be mislead regarding ongoing costs.
- Automatically step-up to 30X
 - Pro Would help protect the State
 - Con Onerous requirement
- Alternative "X" level
 - 5X increments
 - Based on what criteria?
 - Pro Flexibility is good, especially with review by CIWMB